

on information presented or referred to at the hearing. The decision of an authorized representative of the Secretary may be appealed as provided in § 115.14.

(5) The Secretary, or an authorized representative, shall make provisions for recording the hearing and shall preserve the record for the duration of the appeal period. Tape recording the hearing is sufficient.

(6) The Secretary, or an authorized representative, will advise all parties concerned, in writing, of a decision within 10 working days after completion of the hearing.

(d) No money except as provided in subsection (b) of this section, shall be paid from an Individual Indian Money Account or applied against a delinquent claim or judgment of a tribal court or court of Indian offenses until the decision on the claim has become final in accordance with the appeal procedures provided for in § 115.14.

[51 FR 2874, Jan. 22, 1986]

§ 115.11 Funds of deceased Indians other than the Five Civilized Tribes.

Funds of a deceased Indian other than those of the Five Civilized Tribes may be disbursed

(a) For the payment of obligations previously authorized, including authorized expenses of last illness;

(b) For authorized funeral expenses;

(c) For support of dependent members of the family of decedent in such amounts deemed necessary to avoid hardship and consistent with the value of the estate and the interest of probable heirs;

(d) For necessary expenses to conserve the estate pending the completion of probate proceedings; and

(e) For probate fees and claims allowed pursuant to part 15 of this chapter.

[23 FR 7942, Oct. 15, 1958. Redesignated at 47 FR 13327, Mar. 30, 1982, and further redesignated at 51 FR 2874, Jan. 22, 1986]

§ 115.12 Funds of deceased Indians of the Five Civilized Tribes.

Funds of a deceased Indian of the Five Civilized Tribes may be disbursed to pay ad valorem and personal property taxes, Federal and State estate

and income taxes, obligations approved by the Secretary of his authorized representative prior to death of decedent, expenses of last sickness and burial and claims found to be just and reasonable which are not barred by the statute of limitations, costs of determining heirs to restricted property by the State courts, and claims allowed pursuant to part 16 of this chapter.

[23 FR 7942, Oct. 15, 1958. Redesignated at 47 FR 13327, Mar. 30, 1982, and further redesignated at 51 FR 2874, Jan. 22, 1986]

§ 115.13 Assets of members of the Agua Caliente Band of Mission Indians.

(a) The provisions of this section apply to money or other property, except real property, held by the United States in trust for such Indians, which may be used, advanced, expended, exchanged, deposited, disposed of, invested, and reinvested by the Director, Palm Springs Office, in accordance with the Act of October 17, 1968 (Pub. L. 90–597). The management or disposition of real property is covered in other parts of this chapter.

(b) Investments made by the Director, Palm Springs Office, under the Act of October 17, 1968, supra, shall be of such a nature as will afford reasonable protection of the assets of the individual Indian involved. The Director is authorized to enter into contracts for the management of the assets (except real property) of individual Indians. The consent of the individual Indian concerned must be obtained prior to the taking of actions affecting his assets, unless the Director determines, under the provisions of section (e) of the Act, that consent is not required.

(c) The Director may, consistent with normal business practices, establish appropriate fees for reports he requires from guardians, conservators, or other fiduciaries appointed under State law for members of the Band.

[33 FR 16636, Nov. 15, 1968. Redesignated at 47 FR 13327, Mar. 30, 1982, and further redesignated at 51 FR 2874, Jan. 22, 1986]

§ 115.14 Appeals.

Appeals from an action taken by an official of the Bureau of Indian Affairs

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may be taken pursuant to 25 CFR part 2, subject to the terms of § 115.10(c)(2).

[51 FR 2874, Jan. 22, 1986]

§ 115.15 Information collection.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et. seq.*

[51 FR 2875, Jan. 22, 1986]

PART 116—CREATION OF TRUSTS FOR RESTRICTED PROPERTY OF INDIANS, FIVE CIVILIZED TRIBES, OKLAHOMA

Sec.

- 116.1 Application for trust.
- 116.2 Obligations of trust company.
- 116.3 Secretarial approval discretionary.
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- 116.5 Eligibility of appraisers.
- 116.6 Aiding Indians in formulating trust agreements.
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- 116.8 Trustee's security.
- 116.9 Trustee's compensation.
- 116.10 Necessary forms.
- 116.11 Limit restricted property in trust.
- 116.12 Amendments.

AUTHORITY: Sec. 7, 47 Stat. 778.

SOURCE: 22 FR 10552, Dec. 24, 1957, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

§ 116.1 Application for trust.

Indians desiring to establish trust estates under the provisions of the said act must make written application therefor to the Secretary of the Interior through the superintendent or other official in charge of the Five Civilized Tribes Agency, Muskogee, Oklahoma. The application shall designate the trustee, the beneficiary or beneficiaries and the manner in which it is desired the corpus of the estate shall be distributed upon the termination of the trust. A form of application will, upon request, be furnished by the said superintendent and should be filled out and executed in the presence of the field clerk or, in the office of the superintendent and duly attested by the field clerk or some other Government employee. The information required by the form of application and such other information as may be requested con-

cerning the Indian and his affairs shall be carefully considered by the superintendent who will affix his recommendation to the application and forward it to the Secretary of the Interior with his report, which report shall contain full advice with respect to the education and business qualifications of the applicant, his ability to read, write and understand the English language, his reputation for industry and thrift and what experience, if any, he has had in a business way.

§ 116.2 Obligations of trust company.

The form of proposed trust agreement shall be executed by the trust company or banking institution selected as trustee, and shall be signed by and submitted with the application of the Indian, together with a statement in writing by said trust company or banking institution similar in form to that prescribed by the Comptroller of the Currency (or by the State banking department), showing fully the conditions of said trust company or banking institutions on a day not more than 1 month prior to the date of the application for the creation of the trust. The agreement must also be accompanied by a written certificate duly executed by the trustee to the effect that it has not paid or promised to pay any person other than an officer or employee on its regular payroll any fee, charge, commission or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in that or in other trusts to which the regulations in this part apply.

§ 116.3 Secretarial approval discretionary.

No such trust agreement will be favorably considered unless in the judgment of the Secretary of the Interior the trustee therein named is deemed by him to be on a sound financial basis and otherwise sufficiently qualified to justify approval of such trust.

§ 116.4 Contents trust agreement.

In addition to the subject matter of the trust, its object and beneficiaries, duties of trustee, etc., the form of trust agreement shall contain provisions to the following general effect: